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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,766	12/20/2001	Tony Piotrowski	US010629	4307
24737	7590	04/21/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			HEWITT II, CALVIN L	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			3621	
DATE MAILED: 04/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/024,766	PIOTROWSKI, TONY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Calvin L Hewitt II	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 January 2005.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

***Status of Claims***

1. Claims 1-18 have been examined.

***Response to Applicant's Arguments***

2. Wynn teaches an apparatus (figure 1) that comprises a transportable programmable information tag (figure 1; column/line 4/44-5/5) that is uniquely encoded for association with a user (figure 6; column/line 4/55-5/5; column 13, lines 1-28; column 15, lines 1-24) and a card reader (figure 1; column 4, lines 17-44). Applicant has added limitations that are directed to actions performed by the purchaser (e.g. claim 1- whereby said individual purchaser thereafter uses the programmed information tag to obtain delivery of the goods or services). However, this is merely intended use and a recitation directed to the manner in which a claimed apparatus (or system or method) is intended to be used does not distinguish the claimed apparatus from the prior art- if the prior art has the capability to so perform (MPEP 2114 and Ex parte Masham, 2 USPQ2d 1647 (1967)). Similarly, claims 9 and 14 now recite a tag "to prove a transaction for obtaining the delivery of goods or services". But, Wynn teaches e-receipts used to program an RFID tag (abstract; column 4, lines 65-67; column 9, lines 52-62; column 10, lines 5-67), hence, Wynn continues to read on claim 9 as a receipt

may be used to prove or verify a transaction and the RFID tag of Wynn permits a user to receive (e.g. purchase) goods and services.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, and 8-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wynn U.S. Patent No. 5,859,419.

As per claims 1-3, 5, 6 and 8, Wynn teaches an apparatus comprising:

- a programmable information tag (abstract)
- a communication unit capable of communicating with one or more information interfaces (figures 1, and 3-5)
- a controller coupled to the information tag arranged to receive information (e.g. relates to a good or service to be provided by a merchant or service provider or receipt) through the communication unit arranged to receive (abstract; figures 3 and 5; column 4/55-5/5)

- wherein the apparatus and the information interface communicate over a client/server network (figures 1, 3 and 5)
- wherein the tag comprises an RFID tag (column 4, lines 44-46)
- wherein the tag is detachable from the apparatus (abstract; figures 3 and 5)
- wherein the programmed information further includes information related to a particular user (abstract; figure 6; column/line 4/55-5/5; column 5, lines 43-58; column 9, lines 52-63)

As per claim 9-13, Wynn also teaches an e-commerce system that records an e-receipt that comprises information (e.g. unique code, related to a customer identity) (abstract; column 4, lines 65-67) used to program an RFID tag (abstract; column 9, lines 52-62; column 10, lines 5-67) and uses a database that includes information that is used to verify what goods or services are associated with an e-receipt and a consumer profile (figure 6; column/line 4/55-5/5; column 10, lines 18-49)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynn, U.S. Patent No. 5,859,419 in view of Lofgren et al., U.S. Patent No. 6,6608,911.

As per claim 4, Wynn teaches a programmable identification card (abstract). However, Wynn does not specifically recite a programmable identification card that comprises a bar code. Lofgren et al. teach a programmable identification card that comprises a bar code (column 12, lines 5-10). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Wynn and Lofgren et al. in order to assist in authenticating the card and/or the card-holder ('911, column 3, lines 35-40).

7. Claims 7 and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynn, U.S. Patent No. 5,859,419.

As per claims 7 and 14-18, Wynn teaches a communication unit communicating information (e.g. unique code, related to a particular user, consumer profile) to an information interface over a client/server network (figures 1, 3 and 5; figure 6; column/line 4/55-5/5; column 10, lines 18-49). Wynn does not specifically recite internet. However, the internet is a well-known client/server network and it would have been obvious to one of ordinary skill to exchange data

between a residential computer and financial institution over an established network (i.e. internet) as opposed to constructing a proprietary one.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
c/o Technology Center 2100  
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:

(703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5,  
2451 Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Calvin Loyd Hewitt II  
November 4, 2004

JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600